

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**V.**

**CITY OF AKRON, OHIO,**

and

**THE STATE OF OHIO,**

## Defendants.

**CASE NO. 5:09-CV-00272**

**JUDGE JOHN ADAMS**

**STATE OF OHIO'S RESPONSE TO  
SHOW CAUSE ORDER**

The State of Ohio hereby submits this response pursuant to the Court's Show Cause Order of December 17, 2019. The State of Ohio Opposes the appointment of a Court Monitor because the State does not believe that a Monitor is necessary at this time. As set forth in the response of the United States and the City of Akron, the United States and the State of Ohio have been actively monitoring compliance with the Consent Decree.

***The Expected Final Completion Date of The Ohio Canal Tunnel.***

While the Court is justifiably concerned about the delays in the final completion of the Ohio Canal Tunnel, Akron has indicated to the United States and Ohio that the tunnel should be operational by the end of June, 2020. Given the complexity of the Consent Decree and the construction of the tunnel, any Monitor will need substantial time to gain sufficient knowledge of the issues involved. Given the six month time frame in which the tunnel is expected to be completed the parties could report to the court when the tunnel is operational without the requirement of a Monitor.

At this time the United States and Ohio have requested additional information from Akron regarding delays in completion of the tunnel project. The regulators will be evaluating this information as they determine appropriate enforcement options which may include the imposition of stipulated penalties. Without understating the importance of the Ohio Canal Tunnel, the regulators have been monitoring compliance with numerous other Consent Decree requirements.

***The Majority Of The CSO And WPCS Control Measures Have Been Constructed Or Are Under Construction.***

Currently, the majority of the control measure to be constructed by the City of Akron have been constructed or are under construction. The CSO and WPCS control measures required under the Consent Decree are identified in Consent Decree Sections V and VI, which includes all of the control measures required under the LTCP Update. In addition, Section VIII of the Consent Decree requires upgrades to the Mud Run Pump Station. To date, Akron has completed the following projects:

- Five sewer separation projects;
- Two green sewer separation projects (i.e. sewer separation with green infrastructure on the storm water component);
- Four storage basins;
- Rehabilitation and capping on the Main Outfall Interceptor (“MOI”);
- Mud Run Pump Station upgrades; and
- WPCS upgrades that expanded the secondary treatment capacity from 110 million gallons per day (“MGD”) to 220 MGD.

In addition to these completed projects, Akron is currently in the process of constructing, the Rack 27/29 project, the Rack 10/11 storage basin and additional

upgrades at the WPCS. Given the fact that the majority of work required by the CD has either been completed or is in the process of construction, a Monitor does not seem necessary at this time.

**Ohio Supports the Increased Reporting Proposed by the United States.**

In lieu of the appointment of a Monitor, the United States has proposed changes to the reporting requirements under the Consent Decree. The State of Ohio is in support of these changes.

**Conclusion.**

The State believes that additional reporting to the Court will alleviate any need for a Court Monitor and requests that this Court not appoint a Monitor at this time.

Respectfully submitted,  
**DAVID YOST**  
**ATTORNEY GENERAL OF OHIO**

/s/ **Lawrence S. Helkowski**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via email and/or this Court's Case Management/Electronic Case Files (CM/ECF) docketing system, this 10<sup>th</sup> day of January 2020:

/s/ Lawrence S. Helkowski  
LAWRENCE S. HELKOWSKI  
Assistant Attorney General